

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

RHONDA SUE HOFFMAN,

Plaintiff,

v.

Case No.: 2:18-cv-680-FtM-38MRM

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**OPINION AND ORDER<sup>1</sup>**

Before the Court is United States Magistrate Judge Mac R. McCoy's Report and Recommendation ([Doc. 21](#)). Judge McCoy recommends affirming the Commissioner of Social Security's decision to deny Plaintiff Rhonda Sue Hoffman's disability, disability insurance benefits ("DIB"), and supplemental security income ("SSI"). Hoffman objects to the R&R ([Doc. 22](#)), to which the Commissioner has responded ([Doc. 23](#)).

**BACKGROUND**

The Court adopts the factual background detailed in the R&R. ([Doc. 21 at 2-4](#)). For brevity's sake, the Court will briefly outline the procedural background. Nearly six years ago, Hoffman applied for a period of disability, DIB, and SSI for her seizures and memory loss. After a hearing, the Administrative Law Judge ("ALJ") denied Hoffman's application, finding that she was not disabled. The Appeals Council denied Hoffman's

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<sup>1</sup> Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

request for review, making the ALJ's decision the Commissioner's final decision. Thereafter, Hoffman filed the instant appeal. ([Doc. 1](#)).

## LEGAL STANDARDS

### A. Review of the Magistrate Judge's Report and Recommendation

In reviewing a report and recommendation, the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." [28 U.S.C. § 636\(b\)\(1\)\(C\)](#); see also [Fed. R. Civ. P. 72\(b\)\(3\)](#). When a party makes specific objections to a magistrate judge's report, the district court engages in a *de novo* review of the issues raised. See [28 U.S.C. § 636\(b\)\(1\)\(C\)](#); [Fed. R. Civ. P. 72\(b\)\(3\)](#).

### B. Review of the ALJ's Decision

A court's review of the Commissioner's decision is limited to evaluating whether substantial evidence supports the decision and whether the ALJ applied the proper legal standards. See [Winschel v. Comm'r of Soc. Sec.](#), 631 F.3d 1176, 1178 (11th Cir. 2011). This review is *de novo*. See [Moore v. Barnhart](#), 405 F.3d 1208, 1211 (11th Cir. 2005) (citing [Chester v. Bowen](#), 792 F.2d 129, 131 (11th Cir. 1986)). "Substantial evidence is more than a scintilla and is such relevant evidence as a reasonable person would accept as adequate to support a conclusion." [Crawford v. Comm'r of Soc. Sec.](#), 363 F.3d 1155, 1158 (11th Cir. 2004) (quoting [Lewis v. Callahan](#), 125 F.3d 1436, 1439 (11th Cir. 1997)). "[The Court] may not decide facts anew, reweigh the evidence, or substitute [its] judgment for that of the Commissioner." [Dyer v. Barnhart](#), 395 F.3d 1206, 1210 (11th Cir. 2005) (citing [Phillips v. Barnhart](#), 357 F.3d 1232, n. 8 (11th Cir. 2004)). The ALJ's decision must be affirmed if it is supported by substantial evidence, even if the Court finds the evidence more likely supports a different conclusion. See [Miles](#)

*v. Chater*, 84 F.3d 1397, 1400 (11th Cir. 1996) (citing *Martin v. Sullivan*, 894 F.2d 1520, 1529 (11th Cir. 1990)).

## **DISCUSSION**

Plaintiff raises two objections to the R&R, offering nothing more than a reiteration of the arguments she made in the parties' Joint Memorandum. (Doc. 20). Hoffman asserts the ALJ erred because she: (1) failed to provide Plaintiff with a supplemental hearing to cross-examine Dr. Zaki; and (2) failed to develop the record regarding the testimony of a vocational expert at step five (Doc. 22). Plaintiff repeats her arguments as presented to Judge McCoy and adds no legal or factual support for her objections to the R&R. See Doc. 22 at pp. 8-11, 15-18.

After an independent review of the complete record, Joint Memorandum (Doc. 20), and applicable case law, the Court finds the R&R to be well reasoned, thorough, and legally sound. As such, the Court agrees with Judge McCoy's findings and recommendations over Hoffman's objections. Therefore, the Commissioner's decision is affirmed.


Accordingly, it is now

### **ORDERED:**

1. Plaintiff's Objections to the United States Magistrate Judge's Report and Recommendation (Doc. 22) are **OVERRULED**.
2. United States Magistrate Judge Mac R. McCoy's Report and Recommendation (Doc. 21) is **ADOPTED and ACCEPTED** and the findings incorporated herein.
3. The Commissioner of Social Security's decision is **AFFIRMED**.

4. The Clerk of Court is **DIRECTED** to enter judgment pursuant to sentence four of [42 U.S.C. § 405\(g\)](#) in favor of the Commissioner of Social Security, and to close the file.

**DONE** and **ORDERED** in Fort Myers, Florida this 12th day of February, 2020.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record